

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE

KENNETH E. SAVAGE, JR.,

PLAINTIFF,

VS.

NO. 2:14-cv-02057-STA-dkv

FEDERAL EXPRESS CORPORATION,
D/B/A FEDEX EXPRESS, FEDEX
CORPORATION EMPLOYEES' PENSION
PLAN, FEDEX CORPORATION RETIREMENT
SAVINGS PLAN,

DEFENDANTS.

DEPOSITION

OF

JOFFRE DISABATINO

FEBRUARY 13, 2015

TAMMY WENDEL, LCR, CCR
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Beech Bluff, Tennessee 38313
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EXHIBIT

B

1 The deposition of JOFFRE DISABATINO
2 is taken on this, the 13th day of February,
3 2015, on behalf of the Plaintiff, pursuant to
4 notice and consent of counsel, beginning at
5 approximately 9:16 a.m. at FedEx World
6 Headquarters, 3620 Hacks Cross Road, Building
7 B, Memphis, Tennessee.

8 This deposition is taken pursuant to
9 the terms and provisions of the Tennessee Rules
10 of Civil Procedure.

11 All forms and formalities, including
12 the signature of the witness, are waived, and
13 objections alone as to matters of competency,
14 irrelevancy and immateriality of the testimony
15 are reserved to be presented and disposed of at
16 or before the hearing.

A P P E A R A N C E S

ON BEHALF OF THE PLAINTIFF:

JOSEPH NAPILTONIA
ATTORNEY AT LAW
22515 BANISTER
SAN ANTONIO, TEXAS 78259
615.336.6882

ON BEHALF OF THE DEFENDANTS:

DAVID P. KNOX
FEDEX EXPRESS
SENIOR COUNSEL-LITIGATION
3620 HACKS CROSS ROAD
BUILDING B, THIRD FLOOR
MEMPHIS, TENNESSEE 38125
901.434.6286

ALSO PRESENT:

KENNETH E. SAVAGE, JR.

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I N D E X

Direct Examination
By Mr. Napiltonia.....5

Cross Examination
By Mr. Knox.....45

E X H I B I T S

Exhibit 12 Communications Committee
Meeting Minutes
September 24-26, 2012.....45

Exhibit 13 E-mail Correspondence
Between Disabatino & Savage.....45

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1 that changed.

2 Q. I mean, where do you find that
3 document at?

4 A. It would be -- no, it would be in the
5 policy, wherever the policy is, and they're all
6 on-line now.

7 Q. In 2012, were they on-line?

8 A. I believe they were.

9 Q. Okay.

10 A. I -- I -- I think they might have --
11 we might have had -- I don't know if there was
12 any hard copies at that time. They probably
13 all were electronic.

14 Q. Do you remember any other FedEx
15 employees being disciplined, to include
16 termination, for violating the Reduced Rate
17 Shipping Policy at FedEx in the entire time
18 that you've been employed there?

19 A. Yes.

20 Q. Who do you recall being disciplined?

21 A. Pablo Melgar. I think that's how you
22 say his last name.

23 Q. Okay. Who else?

24 A. That's it.

1 Q. What was the issue with Pablo Melgar?

2 A. I -- I can't answer that. I'm not --

3 Q. You don't know the specifics?

4 A. I would not speculate on the
5 specifics with him or anybody.

6 Q. I don't want you to speculate. Tell
7 me what you recall hearing. I'm not asking you
8 to speculate, just what -- you know, talk over
9 the water cooler in the shop. What do you
10 recall people saying about Pablo and the
11 Reduced Rate Shipping Policy?

12 A. I'm not so sure I'd like to discuss
13 that. I don't have -- obviously, I -- I don't
14 know if I -- do I have to answer that?

15 MR. KNOX: He asked you a question
16 about, you know, what you heard, so, yes,
17 if you can recall anything that you
18 heard, then answer the question and tell
19 him what you heard.

20 THE WITNESS: Okay.

21 A. Over the water cooler, I might have
22 heard that Pablo's girlfriend shipped a package
23 internationally.

24 Q. And what ended up happening with

1 MR. NAPILTONIA: ComCom Meeting
2 Minutes from September 24th.

3 (WHEREUPON, EXHIBIT NO. 12 WAS MARKED
4 TO THE TESTIMONY OF THE WITNESS AND IS
5 ATTACHED HERETO.)

6 MR. NAPILTONIA: And make that e-mail
7 from September 23rd the next exhibit to
8 the deposition.

9 (WHEREUPON, EXHIBIT NO. 13 WAS MARKED
10 TO THE TESTIMONY OF THE WITNESS AND IS
11 ATTACHED HERETO.)

12 MR. KNOX: And those are Exhibits 12
13 and 13, respectively.

14 COURT REPORTER: Yes.

15 MR. KNOX: Anything else?

16 MR. NAPILTONIA: No.

17 MR. KNOX: Okay.

18 CROSS-EXAMINATION

19 BY MR. KNOX:

20 Q. One quick followup question, Mr.
21 Disabatino. Plaintiff's counsel asked you some
22 questions about the termination and
23 reinstatement of Pablo Melgar. Do you remember
24 him asking you those questions?

1 A. Yes.

2 Q. And I believe you stated that the
3 information you gave that was, I think what you
4 called or referred to as just water-cooler
5 talk; is that right?

6 A. That's correct.

7 Q. Were you involved in the
8 investigation of Pablo Melgar's supposed
9 shipping violation?

10 A. No.

11 Q. Were you involved in his GFT?

12 A. No.

13 Q. Were you involved in the decision to
14 terminate or reinstate his employment?

15 A. No.

16 MR. KNOX: Nothing further.

17 MR. NAPILTONIA: Nothing.

18

19 (WHEREUPON, THE PROCEEDINGS WERE
20 CONCLUDED AT APPROXIMATELY 10:17 A.M.)

21

22 (AND FURTHER DEPONENT SAITH NOT.)

23

24 (SIGNATURE WAIVED)

C E R T I F I C A T E

STATE OF TENNESSEE:

COUNTY OF MADISON:

I, TAMMY W. WENDEL, LCR, and Notary Public, Madison County, Tennessee, CERTIFY:

The foregoing proceedings were taken before me at the time and place stated in the foregoing styled cause with the appearances as noted.

Being a Court Reporter, I then reported the proceeding in Stenotype, and the foregoing pages contain a true and correct transcript of my said Stenotype notes then and there taken.

I am not in the employ of and am not related to any of the parties or their counsel, and I have no interest in the matter involved.

I further certify that in order for this document to be considered a true and correct copy, it must bear my original signature and that any reproduction in whole or in part of this document is not authorized and not to be considered authentic. Unauthorized reproduction and/or transfer will be in violation of Tennessee Code Annotated 39-14-149, Theft of Services.

Witness my signature this the _____ day of _____, 2015.

TAMMY W. WENDEL, LCR

Notary Public at Large
For the State of Tennessee
My Commission Expires:
February 24, 2016